

Message Text

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DRAFTED BY L/SFP:LGFIELDS,JR:NMC

APPROVED BY L/SFP:LGFIELDS, JR.

ARA/AND - M. BARNEBEY

ARA/RPP - J. O'GRADY

S/NM - M. CHESCHES

L/M - G. LEHNER - INFO

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FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

C O N F I D E N T I A L STATE 306102

E.O. 11652: GDS

TAGS: SNAR, CI, SHUM

SUBJECT:EXPULSION/EXTRADITION OF CHILEAN NARCOTICS
TRAFFICKERS

REF: SANTIAGO 9785

1. DEPT APOLOGIZES FOR TARDINESS IN PROVIDING REQUESTED
ADVICE ON EXTRADITION OPTION; HOWEVER, PARTICIPATION OF
ASSISTANT LEGAL ADVISER FIELDS IN EUROPEAN NEGOTIATIONS
CONTRIBUTED TO DELAY.

2. BOTH CHILE AND U.S. ARE PARTIES TO SINGLE CONVENTION
ON NARCOTIC DRUGS, 1961 (CHILE RATIFIED FEB. 7, 1968 AND
U.S. ACCEDED MAY 25, 1967) AND TO 1972 AMENDING PROTOCOL
(U.S. RATIFIED NOVEMBER 1, 1972 AND CHILE DECEMBER 19,
1975). THERE IS ALSO A BILATERAL EXTRADITION TREATY
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BETWEEN PARTIES (APRIL 17, 1900) WHICH ENTERED INTO FORCE
JUNE 16, 1902. EXTRADITION TREATY DOES NOT LIST NARCOTIC
RELATED CRIMES AS AN EXTRADITABLE OFFENSE.

3. ARTICLE 36 OF THE SINGLE CONVENTION, AS AMENDED,
PROVIDES:

"(A) SUBJECT TO ITS CONSTITUTIONAL LIMITATIONS, EACH PARTY SHALL ADOPT SUCH MEASURES AS WILL ENSURE THAT CULTIVATION, PRODUCTION, MANUFACTURE, EXTRACTION, PREPARATION, POSSESSION, OFFERING, OFFERING FOR SALE, DISTRIBUTION, PURCHASE, SALE, DELIVERY ON ANY TERMS WHATSOEVER, BROKERAGE, DISPATCH, DISPATCH IN TRANSIT, TRANSPORT, IMPORTATION AND EXPORTATION OF DRUGS CONTRARY TO THE PROVISIONS OF THIS CONVENTION, AND ANY OTHER ACTION WHICH IN THE OPINION OF SUCH PARTY MAY BE CONTRARY TO THE PROVISIONS OF THIS CONVENTION, SHALL BE PUNISHABLE OFFENCES WHEN COMMITTED INTENTIONALLY, AND THAT SERIOUS OFFENCES SHALL BE LIABLE TO ADEQUATE PUNISHMENT PARTICULARLY BY IMPRISONMENT OR OTHER PENALTIES OF DEPRIVATION OF LIBERTY." (PARA 1(A)) IT FURTHER PROVIDES THAT "SUBJECT TO THE CONSTITUTIONAL LIMITATIONS OF A PARTY, ITS LEGAL SYSTEM AND DOMESTIC LAW, "EACH OF THE OFFENCES ENUMERATED IN PARA 1, (QUOTED ABOVE) SHALL BE DEEMED TO BE INCLUDED AS AN EXTRADITABLE OFFENCE IN ANY EXTRADITION TREATY EXISTING BETWEEN PARTIES. PARTIES UNDERTAKE TO INCLUDE SUCH OFFENCES AS EXTRADITABLE OFFENCES IN EVERY EXTRADITION TREATY TO BE CONCLUDED BETWEEN THEM." (PARA 2(B)(I))

4. THIS ALLOWS PARTIES TO THE CONVENTION, WHICH HAVE EXISTING EXTRADITION TREATIES, TO EXTRADITE NARCOTICS FUGITIVES IF PERMITTED BY THE DOMESTIC LAWS OF THE PARTIES. THE U.S., THEREFORE, COULD, PURSUANT TO THE SINGLE CONVENTION, REQUEST THE EXTRADITION OF ALLEGED NARCOTICS OFFENDERS IN THE JURISDICTION OF GOC UNDER THE 1900 U.S.-CHILE EXTRADITION TREATY. GOC WOULD HAVE AUTHORITY TO GRANT OUR EXTRADITION REQUEST, UNLESS THERE IS SOME PROVISION OF CHILEAN LAW WHICH WOULD PREVENT IT. MANY LATIN AMERICAN COUNTRIES HAVE PROVISIONS EITHER IN THEIR CONSTITUTIONS OR DOMESTIC LAWS WHICH PRECLUDE THE EXTRADITION OF THEIR OWN NATIONALS. DEPT IS NOT ADVISED SPECIFICALLY AS TO CHILEAN LAW ON THIS QUESTION; HOWEVER, IN VIEW OF EXPULSION OF CHILEAN NATIONALS IN THE PAST IT SEEMS UNLIKELY THAT THIS WOULD BE AN IMPEDIMENT. INFORMAL SOUNDINGS OF GOC OFFICIALS COULD INDICATE CHILEAN DISPOSITION TO THIS OPTION AND THE EXISTENCE OF ANY LEGAL BAR TO IT. IF GOC ATTITUDE IS FAVORABLE, EXTRADITION REQUESTS CAN BE INITIATED BY U.S. ATTORNEY HAVING JURISDICTION AND DEPT WILL EXPEDITE REQUIRED WASHINGTON ACTION.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Sent Date: 23-Dec-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: LGFIELDS,JR:NMC
Enclosure: n/a
Executive Order: GS
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Review Release Date: n/a
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TAGS: SNAR, SHUM, CI
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